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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET



Date: 8/25/75

TO: Mr. George L. Cary, CIA

FROM: General Counsel

Per my telephone conversation
with

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& opening door*

Draft 6-20-75

By virtue of the authority vested in me by Executive Order _____,
title _____ of the Code of Federal Regulations is amended to add the follow-
ing new part thereto:

PART _____ - SUPPORT OBLIGATIONS

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Subpart A - General

§ -1 Purpose.

The regulations contained in this part are prescribed pursuant to the authority delegated by Executive Order _____ and for the purpose of implementing that Order and section 459 of the Social Security Act (42 U.S.C. 659).

§ -2 Definitions.

The following definitions shall govern the application of this part:

(a) The term "agency" includes all departments, administrations, and instrumentalities in the Executive Branch of the United States of whatsoever kind, all independent establishments of the United States Government, including the Postal Service and all administrations, authorities, boards, commissions, councils, services and instrumentalities of whatsoever kind, and all wholly-owned Federal corporations.

(b) The term "remuneration for employment" means compensation payable for personal services performed by an individual whether denominated as wages, salary, pay or otherwise, and includes periodic payments of annuities and other benefits under Federal programs, such as Civil Service [and military retirement] benefits and benefit payments under title II of the Social Security Act, entitlement to which is based on employment. Monetary payments intended to reimburse or defray expenses incurred by individuals in executing duties associated with their employment by the United States or any agency thereof are not included within the meaning of the term "remuneration for employment".

(c) The term "legal process" means an order, writ, summons or other similar process issued from a court of competent jurisdiction within the

United States in the nature of or in connection with garnishment or attachment against the United States of America to obtain the remuneration for employment payable to an individual, when the purpose of such garnishment or attachment is the satisfaction of a court-ordered child support or alimony obligation.

§ -3 Scope.

(a) This part applies to all agencies referred to in section _____ -2 and to all individuals [including members of the armed or uniformed services] who receive remuneration for employment from any such agency.

(b) The regulations contained in this part deal specifically with (1) the standards of conduct required of individuals covered by this part as they relate to the payment of child support and alimony, obligations, (2) the utilization of allotments and voluntary agreements to arrange payments of support obligations, (3) service and response to legal process seeking the garnishment or attachment of remuneration for employment, and (4) the re-delegation of certain authority.

Subpart B - Standards of Conduct

§ -4 Duty of support.

Individuals subject to this part are expected to satisfy their just financial obligations for the support of their families and dependents. Such individuals are expected to discharge these responsibilities voluntarily in every case where this is possible.

§ -5 Obedience of court orders.

Individuals subject to this part are expected to honor valid court orders for the payment of child support and alimony. Payments should be made

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by such individuals in compliance with such orders so that it will be unnecessary for garnishment or attachment to be undertaken against the United States.

§ -6 Duty to authorize allotment.

If it appears to an individual subject to this part that obligations of child support or alimony cannot be faithfully met by ordinary means, such an individual should authorize an allotment or allotments pursuant to subpart C of these regulations for the satisfaction of such support obligations.

§ -7 Cooperation in garnishment or attachment proceedings.

An individual subject to this part whose remuneration for employment from the United States is sought to be garnished or attached shall cooperate fully with the agency making payment of his remuneration for employment as is more fully set forth in subpart D of these regulations.

Subpart C - Allotments

§ -8 Procedures for allotments.

Heads of agencies subject to this part shall establish procedures for the authorization and utilization of allotments for the purpose of meeting child support and alimony obligations.

§ -9 Encouragement of allotments.

Heads of agencies subject to this part shall actively encourage the utilization of allotments for the purpose of meeting child support and alimony obligations, to assist in (1) maintaining confidence in the government, (2) discharging the desirable social objectives involved in honoring such support obligations, and (3) reducing the burdens on and congestion in the courts and the expenses, delays and hardships that are so often involved

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when resort to legal process is required for the enforcement of such support obligations.

Subpart D - Garnishment or Attachment

§ -10 Official to receive service.

Within forty-five days of the publication of these regulations the head of each agency subject to this part shall submit for publication in the appendix to this part the agent or agents upon whom service of legal process may be had to facilitate and expedite compliance with valid writs and orders for the garnishment or attachment of remuneration for employment. Such designations shall be by title of position rather than by given name and shall list the correct addresses and telephone numbers of the agents specified and the data required to properly identify and locate the individual whose remuneration for employment is subject to garnishment or attachment under section 459 of the Social Security Act (42 U.S.C. 659). The head of an agency may also list such additional data, which may be furnished on an optional basis, as will further facilitate certain identification of the individual and his account.

§ -11 Data to accompany legal process.

Legal process served in accordance with this part shall include or be accompanied by the following:

- a. a certified copy of the court order establishing the obligation to pay child support or alimony.
- b. a specification of the type of payment sought to be reached by the garnishment or attachment and the name of the agency making payment thereof.

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§ -12 Service by mail.

Service of legal process may be had by registered or certified mail return receipt requested on the agent listed pursuant to section -10 of this subpart. If no agent for service of process has been listed for a particular agency, service may be effected on the head of the agency. When service is made upon such official, whether by registered or certified mail return receipt requested or in person, and such service is accompanied by the data required by this subpart, the head of the agency shall respond as though there had been personal service upon the person or persons required under applicable State law and within the jurisdiction of the court from which the writ or order issued.

§ -13 Review of writ or process.

Upon receipt of service of a writ or order of garnishment or attachment or as soon thereafter as is practicable the head of the agency making the payment of remuneration sought to be garnished or attached shall determine if the individual named in the writ or process is the same person as the one receiving remuneration for employment from the agency. If such identification is effected, the head of the agency will temporarily suspend payment of a sufficient amount of remuneration for employment due the individual to permit compliance with the writ or order and cause a review to be made of the writ or process and any accompanying papers for the purpose of determining their legal sufficiency.

§ -14 Individual bound after notice.

Unless state procedure provides for notifying an individual that garnishment or attachment has been undertaken or the writ or process served upon

the agency shows that the individual is also being served or notified of the attachment or garnishment of his remuneration for employment, the head of the agency shall take steps to notify the individual thereof.

←It shall be the responsibility of the individual affected to contest the garnishment or attachment if he wishes to avoid the withholding of his remuneration for employment to honor legal process. The individual shall not thereafter claim or be entitled to recover against the United States or any agency or officer thereof for any sums paid over in accordance with the terms of the garnishment or attachment.

§ -15 Competing claims.

If the individual whose remuneration for employment is sought to be attached or garnished (1) owes the United States money which is then due and payable, or (2) is subject to outstanding competing attachments or garnishments for child support or alimony, and any of the foregoing or a combination thereof would prevent honoring the garnishment or attachment in whole or in part, the head of the agency will immediately consult counsel as to the action which should be taken in the matter.

§ -16 Resistance of writ.

If the head of the agency paying remuneration for employment, which is sought to be garnished or attached, finds that (1) the writ or order does not involve a demand for child support or alimony obligations which may be legally enforced pursuant to section 459 of the Social Security Act (42 U.S.C. 659) ⁽²⁾ or/ if other proper grounds for resistance of the writ or order exist, he shall immediately refer the matter to the Attorney General together with a copy of the writ or order and accompanying data and his recommendation in the premises.

§ -17 Honor of writ.

If the head of the agency paying remuneration for employment which is sought to be garnished or attached finds that there is sufficient money available to honor the writ or order in the form presented and no good reason for resistance by the United States is apparent, the court shall be advised that the writ will be honored and appropriate action will be taken to pay the sum required into court or as the court directs.

§ -18 Offer of allotment.

The head of the agency or his designee shall encourage the individual whose remuneration for employment has been successfully garnished or attached pursuant to section 459 of the Social Security Act (42 U.S.C. 659) to provide by allotment for the future discharge of his child support and alimony obligations. If the individual is agreeable to establishing such an allotment, the court will be advised accordingly. The individual whose remuneration for employment is involved shall be responsible for obtaining such court action as may be necessary so that future payments can be made by allotment.

Subpart E - Effective Date

§ -19 Notice of regulations and effective date.

It is hereby found that there is a substantial need for the immediate promulgation of regulations implementing section 459 of the Social Security Act (42 U.S.C. 659) to be effective at once in order that (1) substantial uncertainty on the part of the private bar as to how to effect service upon the United States in actions pursuant to section 459 may be speedily resolved, (2) agency responsibilities for honoring proper garnishments and attachments under the statute may be spelled out, (3) allotment procedures

may be established to obviate the need for such litigation, and (4) substantial human needs may be met and met promptly. For these reasons it is determined that prior publication of notice of proposed regulations and delay of the effective date of such regulations is impractical, unnecessary, and contrary to the public interest. Accordingly these regulations are hereby promulgated and shall be effective upon publication in the Federal Register.

Subpart F - Redelelegation of Authority

§ -20 Implementing regulations.

The head of each agency subject to this part may issue such internal regulations and instructions, not inconsistent herewith, as may be necessary or expedient to enable the personnel of the agency to comply with this part and Executive Order _____.

JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Monday - 25 August 1975

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✓ 1. (Unclassified - RC) LIAISON Took a call from William Nichols, Acting General Counsel, OMB, who said he had received our letter of 11 August 1975 on the Agency's position concerning garnishment. Mr. Nichols felt that our request for a legislative exemption would exacerbate the Agency's position in this connection. He said that a new Executive Order would soon be issued announcing new Civil Service regulations on this subject. The new regulations will also be issued very shortly. He recommended that we read the regulations carefully as it will permit us to continue to handle our special problems in the usual way. For the moment, requests for legislative relief should be held in abeyance.

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